Dear Members of the Veterinary Professions,


Council has received numerous letters and requests for an explanation of penalties imposed in two guilty findings, as reported in the SAVC Newsletter 67, November 2011, namely Dr JH Meyer (D83/1861) and Dr ST Zagt (D95/3709).

Council resolved to publish the brief details on what transpired during the proceedings and the outcomes of these proceedings or deliberations.

In addition, it should be noted that each investigation into unprofessional conduct will be decided on merits and that no precedent has been set by the imposition of the penalties imposed in the cases of Dr JH Meyer and Dr ST Zagt.

DR JH MEYER

1. On 25 March 2010, the complaint against Dr JH Meyer served before the Investigation Committee. The Investigation Committee deliberated and decided that the matter should proceed towards a disciplinary inquiry into the conduct of Dr JH Meyer.
2. Dr JH Meyer was found guilty of unprofessional conduct on 8 November 2010 in that:
   - Dr Meyer acted in contravention of section 34 (open shop) of the Act during 2008 to 2009 by dispensing medicines, 26 bottles of M99, to a layperson, knowing that the medicines would be administered for the treatment of animals that were not under his professional care; and
   - Dr Meyer furthermore acted in contravention of rule 10 of the Rules relating to the veterinary profession by issuing prescriptions for the above mentioned medicine without:
     a. Satisfying himself that the administering of the medicine was justified with due allowance for the benefits and risks which the medicine could have held for:
        i. The animal to which it was administered;
        ii. The layperson by whom it was administered; and
        iii. The consumer of the products of that animal if residues of the medicine concerned would be present in those products;
     b. Fully informing the owner of the animal to which the medicine was administered with regard to:
        i. The application and effect of and precautionary measures in connection with that medicine; and
        ii. The period, if any, during which the products of that animal are to be withheld from human consumption.

3. Dr JH Meyer was given an opportunity to address the Inquiry Body with regard to sentencing. Dr JH Meyer gave the following mitigating factors:
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   - He has been in practice for 25 years;
   - In the 25 years of registration with the Council, he has not appeared before an Inquiry Body for unprofessional conduct. This was his first time; and
   - Being a veterinarian was his only source of income;”

4. After hearing the mitigating circumstances presented by Dr JH Meyer and the aggravating factors presented by the pro forma complaint, Mrs H Kruger, the Inquiry Body handed down the following penalty:

   Dr JHG Meyer is suspended for a period of two (2) months with effect from 9 December 2010, if no representation has been received by 8 December 2010.
5. The Inquiry Body gave the following reasons for its decision:

- Dr Meyer was proven guilty of a serious offence over a period of time (May 2008 – June 2009) by repeatedly dispensing highly scheduled medicine to a lay person for use without any veterinary supervision on animals that he had never seen or had any intention of seeing, and that he could not claim to be under his professional care. By doing so, he empowered a lay person to perform veterinary procedures to the detriment of both the profession and the wider community;

- The evidence lead by Dr Meyer indicated that M99 was a very dangerous medicine and that the level of professional competence in dealing with such a scheduled medicine would also require a higher degree of professionalism and integrity;

- Dr Meyer had been in practice for approximately 27 years (since he was registered in 1983);

- The penalty should have the maximum deterrent value possible for the message to be heard that this misuse of professional trust cannot be condoned;

- The respondent however had realized that he had made a mistake and stopped the supply of the scheduled medicine out of his own volition before any warning from the Council to do so, and he had no motive of profit gain in the whole transaction; and

- He was a first time offender and has his veterinary practice as his sole source of income and is putting two children through university. Therefore he was not likely to repeat the offence and there will be no benefit to remove him from his place of work.

6. In terms of rule 38 of the Rules promulgated in terms of the Veterinary and Para-Veterinary Professions Act, no 19 of 1982, Dr JH Meyer is entitled to make representations to Council in the form of a written memorandum. Dr JH Meyer gave notice of appeal in terms of rule 38 on 7 December 2010 against the sentence imposed by the Inquiry Body.

7. Dr JH Meyer submitted the following reasons for his appeal against the sentence/penalty imposed by the Inquiry Body and in mitigation of the penalty:

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- This was his first conviction;

- He has been in practice for 27 years, since 1983 and has a clean disciplinary record with no complaint having been made to the Council against him;

- He was acting in good faith at the time of the incidents and had no intention to act unlawfully or in a dishonest or deceitful manner;
• He did not gain financially from the sales in that he sold the scheduled medicines at cost price because he believed he was assisting the layperson in the training of students from the Department of Nature Conservation;
• He stopped supplying the scheduled medicines of his own volition in June 2009. He only supplied the drugs for a year when he realized that the scheduled medicines were possibly not being used for the purpose that he had agreed to supply them i.e. for student training;
• He was taken in by the good reputation and convincing persona of the layperson and that the layperson obtained the scheduled medicines under false pretences. He genuinely believed he was helping in the training of students; and
• He operates a veterinary practice in a low income area. The clients are unable to afford high fees as charged by veterinarians in middle to high income areas. The December to January holiday break is his busiest time of year. His practice requires 4 veterinarians to cope with the workload, but there were only 2 veterinarians as it was difficult to obtain veterinary assistants."

8. In light of the review application submitted by Dr Meyer, the execution of the penalty was postponed until finalisation of the review.

9. In terms of section 11(4) read with section 12(4) of the Veterinary and Para-Veterinary Professions Act, 1982 any decision taken or act performed by or on the authority of the Council shall be of full and effect, unless it is set aside or amended by the Council either of its own accord within one year after such decision or at the request of a person affected thereby.

10. Council may vary, confirm or refuse to confirm these findings of the Inquiry Body or may refer the case to the Inquiry Body for further consideration and report.

11. The request for review served before the Council in June 2011, who referred the matter back to the Inquiry Body for reconsideration of the penalty imposed against Dr JH Meyer. After lengthy deliberations, the Inquiry Body remained split on the decision on the amended penalty that should be imposed.

12. The Council was advised hereof and the penalty imposed was once again reviewed by Council in November 2011. When deliberating, Council took into account the following:
• The mitigating and aggravating factors presented at the disciplinary hearing;
• The seriousness of the contravention;
• The impact of the transgression on the veterinary profession, and the country;
• The mitigating factors presented by Dr JH Meyer in his request for review; and
• The reasons given by the Inquiry Body for its decision with regard to sentencing.

14. After extensive deliberation, the Council remained split with its decision and therefore held a vote with regard to the amended penalty that should be imposed against Dr JH Meyer.

15. On 7 December 2011, the Council decided to impose the following amended penalty on Dr JH Meyer:

   Suspension for 6 (six) months.
   This penalty is wholly suspended for 10 years on the following conditions:
   1. He is not found guilty of a similar transgression during the period in which the penalty is suspended;
   2. He immediately pays a fine of R25,000; and
   3. He writes an article for publication in the SAVC Newsletter, March 2012, on the impact of the misuse of scheduled medicines on the veterinary profession.

The Council policy, as communicated to the profession since January 2005, has been that only a veterinarian may dart an animal with etorphine, hydrochloride, thiofentanyl oxylate, fentanyl, or other synthetic opioids; and that prescriptions may not be issued for use of these scheduled substances by clients.

**DR ST ZAGT:**

1. On 7 October 2010, the complaint against Dr ST Zagt served before the Investigation Committee. The Investigation Committee deliberated and decided that the matter proceed towards a disciplinary inquiry into the conduct of Dr ST Zagt.

2. Dr ST Zagt was found guilty of unprofessional conduct on 12 September 2011 in that:
   • Dr ST Zagt acted in contravention of section 34 (open shop) of the Act by prescribing medicines, 30 x 10 ml bottles of Salix to a stud yard, owned by a layperson, knowing that the medicines would be administered for the treatment of animals and/or horses that were not under his professional care;
• Dr ST Zagt furthermore acted in contravention of Rule 10 of the Rules relating to the Veterinary profession by issuing a prescription for 30 x 10 ml bottles of Salix medicine without:

  a. Satisfying himself that the administering of the medicine was justified with due allowance for the benefits and risks which the medicine could have held for the animal to which it was administered; and

• Dr ST Zagt furthermore acted in contravention of Rule 26 of the Rules relating to the Veterinary profession by:

  a) Failing to complete a veterinary case sheet in duplicate, as required by all veterinary professionals attending to horses in training registered with the National Horseracing Authority of Southern Africa, containing the following information:
  i. premise identification;
  ii. patient identification;
  iii. diagnosis; and
  iv. treatment; and

  (b) Failing to retain the original completed case sheet and hand a copy of the case sheet to the layperson requesting the treatment.

3. Dr ST Zagt was given an opportunity to address the Inquiry Body with regard to sentencing. Dr ST Zagt gave the following mitigating factors:

"• The inquiry was as a result of the problem of rules and regulations of the National Horseracing Association of South Africa (NHRA);
• His issuing of a poorly completed prescription was inexcusable;
• He had attended numerous CPD courses, although he still awaited the certificates confirming attendance;
• He was upset that his many years of contribution to the veterinary profession was being questioned; and
• His intention of issuing a prescription was to assist a friend once-off, and the prescription was given directly to the pharmacy and not made available to the layperson."
4. After hearing the mitigating circumstances presented by Dr ST Zagt and the aggravating factors presented by the pro forma complaint, Mrs S Dowlath-Singh, the Inquiry Body handed down the following penalty:

Dr ST Zagt’s registration was withdrawn.
This penalty was wholly suspended to five years on the following conditions:
i. Dr ST Zagt pay a fine in the amount of R5000-00;
ii. Dr ST Zagt attend an SAVC approved course on the prescribing and scheduling of medicines;
iii. Dr ST Zagt submit his CPD points by the 30 November 2011; and
iv. Dr ST Zagt is not found guilty of a similar offence during the period of suspension of 5 years.

5. The Inquiry Body gave the following reasons for its finding and the penalty imposed:
   - Dr ST Zagt did not substantially oppose the evidence presented by the pro forma complainant during the inquiry;
   - Dr ST Zagt had realised during the course of the inquiry proceedings that the definition of prevention, in relation to section 34 of the Act, involved treatment of animals;
   - It had been established through evidence that the horses for which the scheduled medicines were prescribed were not under the professional care of Dr ST Zagt;
   - The prescription completed by Dr ST Zagt was not completed properly and did not comply with the requirements of rule 26;
   - The seriousness of the transgression was taken into consideration; and
   - The fine proposed by the pro forma complainant of R25,000-00 was exorbitant in relation to the transgression.

Any affected person(s) who has an interest in this matter and who is of the opinion that the SAVC did not apply their minds in this matter has recourse in the High Court of South Africa.

Furthermore, the Council is unable to review its own decision and may re-open the matter should it be presented with new information or evidence pertaining to the transgression.

THE SOUTH AFRICAN VETERINARY COUNCIL
REVIEW: CODE OF CONDUCT AND PRACTICE
Sybrand van den Berg

The Code of Conduct and Practice is a dynamic guide for the Veterinary Profession and came into being after extensive research and wide consultation.

Council appointed a committee in 1994 consisting of representatives of the large animal practitioners, small animal practitioners, equine practitioners and industry to draft the first Code of Conduct and Practice for veterinarians in South Africa.

Codes of Conduct from countries all over the world were obtained and studied and in some respects adopted and in others adapted for the South African situation. Various independent inputs were solicited from the different sectors of the profession such as animal welfare, wildlife, industry, legal practitioners and academia etc. Hence the Code of Conduct and Practice belongs to all members of the profession. The Code was first published in 1997.

Members who regard the Code as another punitive initiative of Council is missing the intentions entirely. To criticize our Council who by way of a Code attempts to prevent or minimize complaints, is beyond apprehension. Be assured that the contents of the Code addresses situations which are also internationally of the same importance. Furthermore some directions flowed directly from repeated complaints to our Council. It was decided not to be apathetic about it, but to communicate in a Code to our profession a possible solution.

As it is a dynamic document Council has since its inception requested input through the newsletter for review of the Code. Council is grateful to Dr Peter Ardington who undertook a mammoth task to incorporate these inputs into the existing Code of Conduct and Practice during 2004. I wish to on behalf of Council and the Veterinary Profession express sincere appreciation for the practical approach with which Dr Ardington incorporated various inputs into the Code and for the amount of work that he has undertaken on Council’s behalf.

Council has now requested Council member, Dr Stuart Varrie to collect and collate further comments on the Code end to bring these collated comments and any other input back to Council for incorporation.

GAME CAPTURE: ACT 101 OF 1965
ANAESTHESIA OF ANIMALS

Council policy in terms of the use of scheduled substances used for anaesthetising animals has been changed and brought in line with what is internationally required.

Veterinarians are to be the only end users of scheduled substances used for anaesthetising animals.

Scripts are not to be issued for use of these scheduled substances by clients.

The darting of animals, including free-ranging game animals, with etorphine hydrochloride, thiophentanyl oxylate, fentanyl or other synthetic opioids is a strictly veterinary procedure, namely the anaesthesia of animals. To ensure the ideal safe, ethical and sound anaesthesia (immobilisation) of animals with a zero mortality rate only veterinarians should perform this veterinary procedure in line with international practice. The training of veterinarians includes a number of years of full-time study and the programme material covered includes anatomy, physiology, pharmacology, toxicology and anaesthesiology, which give veterinarians the necessary background to deal with all the idiosyncrasies and intricacies of anaesthetising animals.

Alternative game capturing methods, that do not involve chemical intervention, may be utilised by non-veterinarians.

The following information was sent to Council on a scrap piece of paper as an example of what the referral letters look like:

"Mrs Jones, please cast a tail on Ms Hyde. Ultrasound (011) 400-0000."

It is recommended that members furnish the colleague to whom the animal is referred with the complete records of the animal concerned, and state the reasons for requesting such second opinion.